

OCT-10-2002 14:29

ARTZ & ARTZ P.C.

248 223 9522 P.01/09

**ARTZ & ARTZ P.C.**  
**Law Offices**

*Intellectual Property and Technology Related Causes*

**FACSIMILE TRANSMITTAL SHEET**

**Fax: (248) 223-9522**  
**Phone: (248) 223-9500**

**FAX RECEIVED**  
**OCT 11 2002**  
**GROUP 1600**

**TO:** Examiner Janell E. Taylor  
**FIRM:** USPTO  
**FAX NO.:** (703) 872-9306

**OFFICIAL**

=====

**From:** Kevin G. Mierzwa

**Date:** October 10, 2002

**Our File No.:** ORCH 0182 PUS

**Your Ref. No.:** Serial No. 09/844,980

**Comments:** Attached is response to the Office Action dated July 19, 2002.

**Total Pages (incl. Cover sheet):** 9

The information contained in this facsimile message may be confidential and/or legally privileged information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any copying, dissemination or distribution of confidential or privileged information is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and we will arrange for the return of the facsimile. Thank you.

**If there are any problems during transmission, please call:**  
**(248) 223-9500.**

Donna Kraft  
**(Operator)**

29333 TELEGRAPH ROAD, SUITE 250, SOUTHFIELD, MICHIGAN 48034  
TELEPHONE: (248) 223-9500 -- FACSIMILE: (248) 223-9522


Received from <248 223 9522> at 10/10/02 2:28:43 PM [Eastern Daylight Time]

PTO/SB/26 (10-00)

Approved for use 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT</b>		Docket Number (Optional) <b>ORCH 0182</b>
In re Application of: <b>Robert D. Juncosa</b> Application No.: <b>09/844,980</b> Filed: <b>04/27/01</b> For: <b>GENETIC ASSAY SYSTEM</b>		
<p>The owner*, <u>Orchid BioSciences, Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. <u>6,226,109 B1</u>. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.</p> <div style="text-align: right;">         Signature     </div> <div style="text-align: right;"> <u>10/10/02</u>        Date     </div> <div style="text-align: right;">       Kevin G. Mierzwa, Reg. No. 38,049        _____        Typed or printed name     </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.</p> <p><b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO 2658.</b></p> <p>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual filer. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

PTO/SB/97 (08-00)

Approved for use through 10/31/2002. CMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

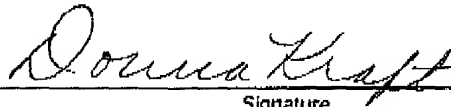
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the  
United States Patent and Trademark Office

on October 10, 2002

Date



Signature

Donna Kraft

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Fee Transmittal for FY 2002
2. Terminal Disclaimer To Obviate A Double Patenting Rejection Over A Prior Patent
3. Response to Office Action dated July 19, 2002 (5 pages)

(All of the above for Application No. 09/844,980, Docket No. ORCH 0182 PUS)

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.